

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2239.05  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: March 22, 2005  
DATE OF REPORT: April 20, 2005  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: June 6, 2004

**COMPLAINT ISSUES:**

Whether Brownstown Central Community School Corporation and Orange-Lawrence-Jackson-Martin-Greene Joint Services violated:

511 IAC 7-25-2(a) by failing to establish, maintain, and implement written procedures that ensure the location, identification, and evaluation of all students who: (1) have legal settlement within the jurisdiction of the public agency; (2) are from birth, but less than 22 years of age; and (3) are in need of special education and related services regardless of the severity of their disabilities; and

511 IAC 7-29-8(a) by failing to follow the required procedures related to protections provided for in Article 7 for a student who has not been determined eligible for special education and related services and who has engaged in behavior that violated any school rule or code of conduct when the school had knowledge, pursuant to 511 IAC 7-29-8(b), that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

During the course of the investigation, the following additional issues were identified:

511 IAC 7-23-1(p) by disclosing personally identifiable information about the student without written and dated consent of the parent;

511 IAC 7-27-9(b) by failing to make available to students with disabilities extracurricular activities, specifically athletics.

**FINDINGS OF FACT:**

1. The Student is 16 years old, has been expelled, and has not been determined eligible for special education and related services.
2. The School Corporation provides the following each year to newspapers within its jurisdiction: (1) a statement explaining that the School is collecting information on students with disabilities and their placement needs, and addressing the confidentiality of the information; (2) a news release discussing the School's search for children with disabilities between the ages of 0 and 21 who are not in school; and (3) a "Search" referral form that can be used to refer students for an evaluation for special education. The School also provides a brief script to local radio stations that describes its search for children with disabilities.

3. The School Corporation annually shares information on its search for children with disabilities and its services with schools, community organizations, health care facilities, media, and professionals.
4. The School Corporation has written policies for parental referral, physician or school referral, and emergency referral of a child for special education services.
5. The Student was referred and evaluated for special education during the 2000-2001 school year, and a case conference committee (CCC) meeting was held on March 7, 2001. At that time the Student was found not eligible for special education services. The parent signed agreement with the determination.
6. The Student was referred for evaluation by the School on March 5, 2004.
7. The Complainant signed for permission to evaluate the Student on May 10, 2004. The evaluation was to be completed and the CCC convened by October 19, 2004.
8. The Student withdrew from the School on September 20, 2004, and re-enrolled on November 18, 2004. The Student was enrolled in an out-of-district alternative school during his absence from the School. The evaluation that was to be completed by October 19, 2004, has not taken place.
9. The Student was expelled from the School January 18, 2005, until the end of the 2004-2005 school year, due to excessive absenteeism. No continuing services are being provided.
10. The Complainant alleged that the School released personally identifiable information about the Student without parent permission, during the 2001-2002 school year, to law enforcement authorities.
11. The Student Handbook of the School requires passing grades in four credit subjects per trimester for students to participate in athletics. The Student did not meet the minimum grade requirements for athletic participation during the 2004-2005 school year.

## **CONCLUSIONS:**

1. Findings of Fact #2 through #4 indicate that the School has child identification policies and procedures in place, and that communications are implemented annually to assist in child identification. Finding of Fact #5 indicates that the School followed child identification procedures for the Student when the Student was first referred for an evaluation. Findings of Fact #6 and #7 indicate that parent permission to evaluate was given May 10, 2004, and that the Student was withdrawn from the School from September 20 through November 18, 2004. Therefore, a violation of 511 IAC 7-25-2 is not found.
2. Findings of Fact #6 and #7 indicate the Student was referred for evaluation by school personnel on March 5, 2004, and the parents gave the School permission to evaluate the Student on May 10, 2004. Findings of Fact #8 and #9 indicate that an evaluation did not take place, the Student was expelled on January 18, 2005, and no services are continuing. Therefore, a violation of 511 IAC 7-29-8(a) is found.
3. Finding of Fact #10 indicates that an allegation was made that the School released personally identifiable information about the Student, without written parent permission, during the 2001-2002 school year. The alleged violation of 511 IAC 7-27-9(b) will not be investigated, as it occurred more than one year prior to the filing of this complaint, per 511 IAC 7-30-2(b).

4. Finding of Fact #11 indicates that the School's policy requires a passing grade in four credit subjects to be eligible for athletic participation. As the Student did not meet this requirement, a violation of 511 IAC 7-27-9(b) is not found.

**The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

Brownstown Central Community School Corporation and Orange-Lawrence-Jackson-Martin-Greene Joint Services shall conduct an expedited evaluation to determine whether the Student is eligible for continued services during the expulsion. See 511 IAC 7-29-8(e) and (f), as well as 511 IAC 7-17-34, for expedited evaluation guidance. If the Student is determined eligible, compensatory services are to be considered by the CCC during the summer of 2005.

Documentation of compliance (consisting of the CCC report) shall be submitted to the Division by May 25, 2005.